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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,794	03/31/2004	Raymond Scott Tetric	30320/17862	7546
4743 7590 03/27/2009 MARSHALL, GERSTEIN & BORUN LLP 233 SOUTH WACKER DRIVE 6300 SEARS TOWER CHICAGO, IL 60606-6357			EXAMINER KAWSAR, ABDULLAH AL	
			ART UNIT 2195	PAPER NUMBER
			MAIL DATE 03/27/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,794

Applicant(s)

TETRICK, RAYMOND SCOTT

Examiner

ABDULLAH AL KAWSAR

Art Unit

2195

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-26 are rejected.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(A) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7-18, 20-22 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox et al.(Fox) US Patent No. 7251746 , in view of Gerber et al.(Gerber) US Patent No. 6163793.
4. As per claim 1, Fox teaches the invention substantially as claimed including a method of reserving an execution thread comprising:

describing a selected processing unit as a spare processor in a device description (col 5, lines 58-61);

preventing peripheral devices from using the selected processing unit (col 5, lines 50-56)

providing a processor description including one or more available processing units to an operating system, wherein the selected processing unit is omitted from the processor description (col 5, lines 58-63; col 6, lines 2-4; lines 29-34).

Fox does not specifically disclose describing a selected processing unit as a peripheral device.

However, Gerber teaches describing a selected processing unit as a peripheral device (col 11, lines 40-52).

5. It would have been obvious to a person of ordinary skill in art at the time of invention was made to incorporate the teaching of Gerber into the method of Fox to describe a processing unit as a peripheral device. The modification would have been obvious because one of the ordinary skills of the art would be able to change the processor description or read a processor as a peripheral device using the driver description of the method of Gerber.

6. As per claim 2, Fox teaches reading the device description of the selected processing unit (col 5, lines 58-61);

Fox does not specifically disclose recognizing the device description of the processing unit as a device description of a peripheral device; retrieving a device driver for the processing unit based on the device description of the selected processing unit; and allocating resources to the selected processing unit based on a request from the driver.

However Gerber teaches recognizing the device description of the processing unit as a device description of a peripheral device (col 11, lines 36-44);

retrieving a device driver for the processing unit based on the device description of the selected processing unit (col 11, lines 36-42); and

allocating resources to the selected processing unit based on a request from the driver (col 3, lines 41-49).

7. As per claim 3, Gerber teaches communicating with the processing unit as a peripheral device via the driver (col 1, lines 52-58; col 11, lines).

8. As per claim 4, Fox teaches the device description comprises an identification unique to the selected processing unit (col 5, lines 58-62).

9. As per claim 5, Fox teaches the device description comprises at least one of the following: vendor identification, device identification, allocated address space, interrupt capabilities, basic input/output system code address and power saving capabilities (col 5, lines 58-62).

10. As per claim 7, Fox teaches describing the selected processing unit comprises creating the device description and setting device configuration values for the selected processing unit (col 3, lines 34-38).

11. As per claim 8, Fox teaches describing the selected processing unit comprises describing the selected processing unit as a spare processor in a device configuration description within a bus configuration space (col4, lines 46-53; col 5, lines 50-56).

Fox does not specifically disclose describing a selected processing unit as a peripheral device.

However, Gerber teaches describing a selected processing unit as a peripheral device (col 11, lines 40-52).

12. As per claim 9, Fox teaches preventing peripheral devices from using the selected processing unit comprises modifying an interrupt controller to prevent the selected processing unit from receiving interrupt requests (col 5, lines 50-56).

13. As per claim 10, Fox teaches providing the processor description of one or more available processing units to an operating system comprises providing a power management table to the operating system, wherein the power management table includes a description of all available processing units except the selected processing unit (col 6, lines 29-34; col 5, lines 63-67).

14. As per claim 11, Fox enabling a processor to allow the device description to be written and notifying the selected processing unit of the device description (col 6, lines 28-34; lines 38-41).

15. As per claim 12, Gerber teaches accessing the selected processing unit from a front side bus and from a processor (figure 1; col 2, lines 40-43; lines 51-65).

16. As per claim 13, Fox teaches executing at least one of the following using the selected processing unit: a system health monitor, an operating system kernel external to the operating system, a device, a system performance enhancement, a network stack partition, and server management (col 3, lines 1-11).

17. As per claim 14, Fox teaches the processing unit comprises a logical processing unit related to one or more execution threads (col 4, lines 48-53).

18. As per claim 15, Fox teaches the processing unit comprises a processing core related to one or more execution threads (col 4, lines 56-57; col 3, lines 26-31).

19. As per claim 16, Fox teaches a basic input/output system program performing the method of claim 1(col 6, lines 153-55).

20. As per claim 17, Fox teaches the invention substantially as claimed including a method of reserving an execution thread comprising:

reading a device description relating to a processing unit, the device description comprising an identification relating to the processing unit(col 5, lines 58-63; col 6, lines 37-39);

Fox does not specifically disclose However Gerber teaches searching for device descriptions of peripheral devices; recognizing the device description of the processing unit as a device description of a peripheral device; retrieving a driver for the processing unit based on the identification; and allocating resources to the processing unit based on a request from the driver.

However Gerber teaches searching for device descriptions of peripheral devices (col 3, lines 34-43);

recognizing the device description of the processing unit as a device description of a peripheral device (col 11, lines 36-44);

retrieving a driver for the processing unit based on the identification(col 11, lines 36-42);
and

allocating resources to the processing unit based on a request from the driver (col 3, lines 41-49).

21. As per claim 18, it has similar limitations as of claim 3 above. Therefore it is rejected under the same rational as of claim 3 above.

22. As per claim 20, Fox teaches reading a description of a processor including one or more available processing units, wherein the processing unit is omitted from the processor description (col 5, lines 58-63; col 6, lines 2-4; lines 29-34).

23. As per claim 21, Fox teaches an operating system performing the method of claim 17 (col 6, lines 57-67).

24. As per claims 22, 24-26, they have similar limitations as of claims 1, 7, 9 and 10 above. Therefore, they are rejected under the same rational as of claims 1, 7, 9 and 10 above.

25. Claims 6, 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox et al.(Fox) US Patent No. 7251746, in view of Gerber et al.(Gerber) US Patent No. 6163793, as applied to claim 1, 17 and 22 above, and further in view of Bodin et al.(Bodin) US Patent No. 6760784.

26. As per claim 6, Gerber teaches describing the selected processing unit comprises describing the selected processing unit as a peripheral device (col 11, lines 40-52).

Fox and Gerber do not specifically disclose describing the peripheral device in a bus configuration header.

However Bodin teaches describing the peripheral device in a bus configuration header (col 9, lines 43-49).

27. It would have been obvious to a person of ordinary skill in art at the time of invention was made to incorporate the teaching of Bodin into the combined method of Fox and Gerber to have the device description the bus configuration header. The modification would have been obvious because one of the ordinary skills of the art would modify the device description in virtual device configuration into the bus configuration header to be able to identify the virtual device driver.

28. As per claim 19, it has similar limitations as of claim 6 above. Therefore, it is rejected under the same rational as of claim 6 above.

29. As per claim 23, it has similar limitations as of claim 6 above. Therefore, it is rejected under the same rationale as of claim 6 above.

Response to Arguments

30. Applicant's arguments with respect to claim(s) have been considered but they are not persuasive.

31. In remarks applicant argues that:

(1) Objects to the limited interpretation of the term "computer readable medium" as recited in claims 22-26.

(2) Applicant argues that Fox makes no disclosure of a device description.

(3) Gerber fails to teach describing a selected processing unit as a peripheral device.

32. Examiner respectfully disagrees with applicant:

i. As to point (1), applicant argues that: "the applicant objects to the action's limited interpretation of the term **"computer readable medium"** as recited in claims 22-26. In particular, the action has improperly limited these claims to the specific examples provided in the specification. This is improper, it is well established that limitations appearing in the specification should not be read into the claims.". This argument is not persuasive. Applicant is notified herein that the claim language **does not** recite the term **"computer readable medium"** instead the claim language recites the term **"computer readable memory"** which has a clear support in the specification by disclosing a read only **memory** (ROM) and random access **memory** (RAM), and flash **memory** devices.

Therefore, the Examiner interprets the term “computer readable memory” in light of the specification to include only ROM, RAM, and flash memory. If applicant believes that other machine-accessible medium exemplifications described in the specification qualify as “computer readable memory”, Applicant is requested to either amend the specification to group recited machine accessible medium examples under “computer readable memory” category or amend the claim to be commensurate in scope with the specification pertaining to what is included and what is excluded from being “computer readable memory” otherwise if applicant believes that the entire exemplifications of “computer-accessible medium” as described in the specification in page 9, paragraph 0021 qualifies as “computer readable memory”, the next office action will constitute a 101 rejection as the recited computer-accessible medium in the specification includes “propagated signal (i.e. carrier wave, infrared signals, digital signals, etc.)”.

ii As to point (2), applicant argues that Fox makes no disclosure of a device description and Fox cannot disclose describing the selected processing unit in a device description either as a peripheral device or as a spare processor. Examiner respectfully disagrees with the applicant. The claimed limitation is broad does not disclose what constitutes device description and what constitute describing a processor as peripheral device in device description. The examiner interprets the limitation as the software ID identifying the processor as a spare processor as disclosed in Fox teaching (col 5, lines 58-62).

iii. As to point (3), applicant argues that Gerber fails to disclose describing a selected processing unit as peripheral device. Examiner respectfully disagrees with the applicant. The claimed limitation is broad does not disclose what constitutes device description and what constitute describing a processor as peripheral device in device description. The examiner interprets the limitation as the driver interface which allows the auxiliary processor in Gerber to execute microcode for video compression and decompression algorithm acting as a video peripheral device as described in the driver interface (col 11, lines 36-52).

Conclusion

33. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

34. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

35. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ABDULLAH AL KAWSAR whose telephone number is (571)270-3169. The examiner can normally be reached on 7:30am to 5:00pm, EST.

36. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng Ai T. An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

37. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VAN H NGUYEN/
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